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A Constitutional History of the American People, 1776-1850. Illustrated with maps. By FRANCIS NEWTON THORPE. In two volumes. Pp. xxvii, 486; xv, 520. Price, \$2.50. New York and London: Harper & Brothers, 1893.

It is an ambitious effort which Professor Thorpe has made in his "Constitutional History of the American People." Von Holst in his admirable work has discussed the constitutional principles underlying our government, emphasizing the increased importance attached to the ideal of national unity with the growth of the nation. McMaster, approaching our history from another side, has pictured the life of the people, their social and intellectual development and the influence which this development has had on our national institutions. In the work under review, Professor Thorpe has attempted to combine these methods, finding a middle ground of authority in the laws and constitutions of the various states and the proceedings of their constitutional conventions. "They are the most reliable history extant of democracy in America."

This democracy is the real text of the author's work. He defines it as "the fruit of ages," resting upon a "foundation of free labor," "which has for its ultimate that with which it began, man," and "whose element of decay is the cheapness at which it holds men." Partly perhaps because of the author's delight in epigrams, illustrated in the foregoing definition, and partly because of the sources upon which the author relies, the work before us is not a consecutive history. It is rather a series of essays upon the significance of the changes which have been made in our state constitutions, and the development of certain tendencies in our national life which are considered peculiar to a democracy.

Dividing his work into two periods, the writer first compares the constitutions of the several states prior to 1800, showing the characteristic features of those documents in 1776, and the successive changes introduced during the first quarter century of our national existence. In this period sixteen states adopted twenty-six constitutions, an activity which is considered as due not so much to the hurry in which the first documents were framed, as to the early recognition of the fact that declarations of right and the enunciation of political theories were not satisfactory bases for an administrative organization. "The national constitution was intended to be not a theoretical but an administrative document," and as the forces of democracy advanced, increased attention was paid to this department of government, in the states as well as in the nation.

In the second part of his work Professor Thorpe considers the drift of democratic sentiment illustrated in the constitutions adopted

between 1800 and 1850. The new constitutions and the changes in the old demonstrate to him the prevailing force of one principle; theories of government giving place to rules of administrative action, and in the new duties of the governor he finds a specific example of the change he is noting. Political parties unimportant in colonial times and which "are yet in the infancy of their power," are also a distinct mark of the new epoch for they are always founded because of administrative errors although they may later seek out some theoretical principle as their reason for existence.

This analysis and comparison of constitutional changes forms the body of the work we are considering. In the first volume an attempt is made to treat the union as a whole; in the second, typical states are selected to illustrate general sentiment. There are also several chapters in which the author describes the conditions of life in the middle west during the first portion of the present century. Here was the origin of the United States as distinct from the states united, for the original commonwealths looked on the national government as their creature, while the western states regarded it as their creator. No less important will be the influence of this section upon the nation's future for here population tends to be centred and the democratic spirit is most powerful.

Whether or not the reader agrees with the author in his estimate of the value of the sources upon which his work is based, all students must thank him for the close examination he has given to them. Some researches have already been made among his authorities, but results covering a long period of time have never before been so well tabulated and made available for the general student. Especially in his opening chapters Professor Thorpe has succeeded in giving a comprehensive account of the tendencies which permeated our early fundamental laws, and although the second volume hardly maintains the standard of the first we realize that fields of information hitherto neglected have been utilized and a decided advance made in this method of comparative study. The constitutional convention originated in America and its work has become a recognized factor in modern politics. Indeed the author considers it our chief contribution to political practice. We are the first nation to make a judicial body the final arbiter in national questions and to abide by its decisions. It is in the authorities mentioned by Professor Thorpe that we find authentic records of the acts of these conventions and the establishment of that judicial system. Why then should they not form a good basis for the study of constitutional history? "In the state constitutions have been crystallized the various meanings which now for more than a

century have been read into the national constitution by successful political parties." Why, then, should they not reward intelligent research? There is but one answer to these questions and our author has given it in the valuable results he has obtained.

Yet this is not all that can be said. Although Professor Thorpe has placed great emphasis on definite legal changes he has neglected to call attention to influences which have affected our constitutional thought no less truly than have they. Noting carefully the definite action of constitutional conventions he appears to disregard all changes in political theory which have been due to custom alone. Until a social change has become incorporated in some written law or constitution he does not recognize it as a force in history. Indeed, we can go farther and say that rarely does a legislative interpretation of a constitutional clause receive consideration at his hands. Above all that important part of our national constitution which rests solely on judicial interpretation is practically ignored. These, in our opinion, are serious omissions, and although limitations of space may have compelled the author to neglect many features of our constitutional history, epigrammatic eulogies of democracy are a poor substitute for a study of the unwritten law of the land.

In several instances Professor Thorpe departs from strict constitutional study to give the history of some popular institution which has been affected by the democratic movement. Thus the importance of the church during the first half of the present century is well contrasted with its influence at an earlier period. As the later constitutions are studied the falling away of colonial ecclesiasticism is easily noticeable. One by one the conventions ceased to provide for any connection between church and state. Religious as well as property qualifications for the suffrage began to be rejected as undemocratic and out of accord with the recognition of men rather than of principles. The author considers the decreasing severity of punishments as another example of the new way in which the people were regarded. No longer was the criminal to be forever kept from his fellowmen, but he was to be reformed and made once more a progressive factor in civilization. Imprisonment for debt was abolished and gradually "as public opinion became crystallized these reforms were placed in the state constitutions." By 1850 catering to the people, or, as Professor Thorpe would say, trust in democracy had gone so far that Michigan incorporated an exemption clause into her constitution, though with some doubt as to the equity of such action. This was due not only to the debtor class forming a majority of the population, but also to the discovery that married women had property rights. The measure was popular although

“passing the sentiment of the exemption, which is very beautiful it may be questioned whether it has strengthened public morality.”

Another result of the increased respect paid to democracy was the necessity of public education. In New England alone was early provision made for this training of voters. John Adams, writing the constitution of Massachusetts in 1780, put in educational clauses which make us regard him as the father of the public school, the state college and the institutions for the training of teachers. This provision, copied by the several states and greatly aided by the national government through its system of land grants was in truth, the reason why the Jeffersonian doctrine of men could replace the colonial régime of property. This transition from property to men is one of the chief points emphasized by the author. Again and again he bends his study to the illustration of this movement and so increases the impression of a series of argumentative essays rather than a connected history.

It is in the tabulation of constitutions and the bringing to light of doctrines there illustrated that Professor Thorpe has done his best work. When we turn from this field there is a slight weakness of argument and an occasional misstatement of fact which awakens a distrust much to be regretted. Thus he says (Vol. i, p. 56) “but one commonwealth now retains its annual legislature,” the context seeming to show that what is meant is the annual assembling of that body. Surely Massachusetts is not the only state in which such is the case. Dates are also carelessly used. Thus within two pages the winter of 1797 is spoken of as the completion of Jefferson’s first year in the vice-presidency, the eighth year since he entered Washington’s cabinet and the beginning of the second decade of the national government. Such carelessness of statement together with the grouping of references at the beginning of the chapters rather than giving them as authority for specific points, serves to throw suspicion upon the whole tabulation, a suspicion the more to be regretted because in our opinion it is upon the whole unjustified.

The volumes are a welcome addition to the student’s library, although their excellencies are marred by the style in which they are written. The author’s tabulation and comparison of constitutions would alone make us wish to see the work brought down to our own times. It is only when we compare his work with that of Von Holst and McMaster that we realize the magnitude of the task which Dr. Thorpe has attempted. It is only when we consider what might have been done that we are dissatisfied with what he has accomplished.

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